

MINUTES OF HARRISONBURG PLANNING COMMISSION
April 14, 2010

The Harrisonburg Planning Commission held its regular meeting on Wednesday, April 14, 2010, at 7:00 p.m. in the City Council Chambers, 409 South Main Street.

Members present: Richard Baugh, Charles Chenault, Muawia Da'Mes, Alan Finks, Deb Fitzgerald, Bill Jones and J.M. Snell.

Members absent: none.

Also present: Stacy Turner, Director of Planning and Community Development; Alison Banks, Planner and Secretary.

Chairman Jones called the meeting to order and determined there was a quorum with all members in attendance. He then asked for review and approval of the minutes from the March 10, 2010 regular Planning Commission meeting.

Mr. Chenault moved to approve the minutes as presented.

Mr. Snell seconded the motion.

Mr. Finks and Mrs. Fitzgerald abstained from voting because they were not in attendance at the March meeting.

All voted in favor of approving the minutes. (5-0)

New Business

Rezoning – Southbury Station 2010 Proffer Amendment

Chairman Jones read the request and stated within everyone's packet is a letter from the applicant requesting a continuance until next month's meeting, May 12th. We need a motion on this to continue it for the thirty days.

Mr. Snell moved to continue this request until next month.

Mrs. Fitzgerald seconded the motion.

All voted in favor of the continuance until the May 12, 2010 Planning Commission Meeting.

Preliminary Plat with variance requests – Potters House Worship Center

Chairman Jones read the request and asked staff to report.

Mrs. Banks said the Comprehensive Plan designates this area as Low-Density Residential. This designation states that these areas consist of single-family detached dwellings with a maximum density of 1 to 4 units per acre. Low-density sections are found mainly in well-established neighborhoods and are designed to maintain the existing character of neighborhoods and to provide traditional areas for home ownership.

The following land uses are located on and adjacent to the property:

Site: Potters House Worship Center, zoned R-1

North: Across West Market Street, a non-conforming agricultural use and a non-conforming business use, zoned R-1

East: Single-family dwellings, zoned R-1

South: Single-family dwellings, zoned R-1

West: Single-family dwellings, zoned R-1

The applicants are requesting to preliminarily subdivide a 10,000 square foot parcel from a 7.57-acre +/- tract of land where Potters House Worship Center is located. Additionally, the applicants are requesting a variance from the Subdivision Ordinance per Section 10-2-66 and 10-2-67 to not construct sidewalk along the street frontage of the developing parcel. At present, the Potters House Worship Center acreage has street frontage along West Market Street, Sunny Acres Lane, Leonard Court, and Rhianon Lane. The proposed lot would front directly on, as well as be accessed from, Rhianon Lane. The new lot would be situated within the R-1, Single-family Residential District subdivision of Hampshire Estates and would meet all the area and dimensional regulations for a single-family lot in R-1.

Section 10-2-66 of the Subdivision Ordinance states street improvements shall be provided with each new subdivision in accordance with standards and specifications of the City, and Section 10-2-67 requires the street improvements to be installed by the applicant at their expense. Therefore, once subdivided and developed the proposed new lot would be required to have sidewalk along its frontage with Rhianon Lane. The applicants are requesting a variance to these sections based on the fact that the street frontage for the new lot is approximately 45 feet. Once an entrance and driveway are installed to the property, the actual frontage for sidewalk would be reduced to as little as 17 feet. As well, the existing sidewalk within Hampshire Estates Subdivision is along the opposite side of Rhianon Lane. For these reasons staff is not opposed to the requested variances.

This preliminary plat was originally submitted in 2006, but because of issues with the extension of a sanitary sewer line to the proposed lot, the subdivision never occurred. The applicants and their engineer have worked closely with the Public Utilities Department to resolve the issues and have submitted a valid option to provide sewer to the new parcel. Staff recommends approval of the preliminary plat with the requested variances.

Chairman Jones asked if there were any questions for staff.

Mr. Da'Mes asked staff as to why the Hampshire Estates Subdivision was established with sidewalk on only one side.

Mrs. Banks replied that when Hampshire Estates was developed the requirement for sidewalk was only on one side of the street; not both sides as we have now.

Chairman Jones asked if there were any further questions. Hearing none, he said this is not a public hearing; however, if the applicant desires to speak they may do so at this time.

Ms. Beth Alcox said she is the realtor representing Potters House Worship Center and Mrs. Banks did a great presentation on this request. The Center is trying to create this one extra lot in order to sell and help the Church financially; it is a lot that they will never use.

Chairman Jones asked if there was any discussion from the Planning Commission.

Mr. Snell moved for a favorable recommendation of the preliminary plat to City Council with the requested variances to not have sidewalk.

Mr. Da'Mes seconded the motion.

Chairman Jones said there is a motion to recommend approval and a second. He then called for a voice vote.

All voted in favor of the motion. (7-0)

Chairman Jones said this will go before City Council on May 11, 2010.

Special Use Permit – 627 South Mason Street (Major Family Day Home)

Chairman Jones read the request and asked staff to review.

Mrs. Banks said the Comprehensive Plan designates this area as Neighborhood Residential. This designation states that this type of land use highlights those neighborhoods in which existing conditions dictate the need for careful consideration of the types and densities of future residential development. These are older neighborhoods, which can be characterized by large housing units on small lots.

The following land uses are located on and adjacent to the property:

Site: Single-family dwelling and minor family day home operation, zoned U-R/R-P

North: Dwellings, zoned U-R/R-P

East: Across South Mason Street, dwellings, zoned U-R

South: Dwellings, zoned U-R/-P

West: Dwellings, zoned U-R/R-P

A “Major family day home” is defined as: *A child day care program offered in the residence of the provider or the home of any of the children in care for six (6) through twelve (12) children under the age of thirteen (13), exclusive of any children who reside in the home, when at least one (1) child receives care for compensation.* The applicant is requesting a special use permit per Section 10-3-180 (5) of the Zoning Ordinance to allow a “major family day home” within the U-R, Urban Residential District and the R-P, Residential Professional Overlay District. The site of the request, 627 South Mason Street, is located along the western side of South Mason Street between its intersections with Cantrell Avenue and East Grattan Street.

Currently, Koontz Family Day Home, a “minor family day home”, is operating from the single-family dwelling located on the property. The “minor family day home” use is allowed through the home occupation permit process and is defined in the Zoning Ordinance as *a child day care program offered in the residence of the provider or the home of any of the children in care for one (1) through five (5) children under the age of thirteen (13), exclusive of any children who reside in the home, when at least one (1) child receives care for compensation. No conditions more restrictive than those imposed on residences occupied by a single-family shall be imposed on the day home.* Along with having a home occupation permit, the Koontz Family Day Home is also licensed by the Virginia Department of Social Services (VDSS) for a capacity of up to five children, between the ages of 1 month to 5 years, 11 months. At present, three children are cared for at the “minor family day home”, which operates from 6:30 a.m. to 5:30 p.m. The applicant has stated that she desires to keep more than five children and needs the special use permit, before VDSS would license her for more.

The VDSS has strict requirements regarding issues such as safety, cleanliness, play time, and floor area, that individuals must meet in order to obtain a license to provide child care in a home.

Approval and licensing from the VDSS does not, however, exempt an applicant from maintaining compliance with local ordinances or laws. Approval of this special use permit would allow for the applicant to operate as a “major family day home”, with the proper licensing from the VDSS for more than five children.

The property is situated within a blue zone permit parking area; therefore, parking permits are necessary at all times. Additionally, the portion of South Mason Street directly in front of the home is a right turn lane for traffic turning onto Cantrell Avenue and is marked for “no parking.” The applicants have a shared driveway which parents currently utilize to drop-off and pick-up children. The driveway is large enough to maneuver two vehicles in, as well as turn-around at the back of the home if necessary. Also, a visitor parking pass could be made use of to allow a parent to park along the street.

Staff has no concerns with the operation of a Major Family Day Home at this location and recommends approval of the special use permit request for 627 South Mason Street.

Chairman Jones asked if there were any questions for staff. Hearing none, he opened the public hearing and asked the applicant or the applicant’s representative to speak.

Ms. Tara Koontz, applicant’s representative and resident of 627 South Mason Street, said she would be happy to answer any questions that Planning Commission may have.

Mr. Snell said his only concern is that your driveway is at the beginning point for the right turn only lane, with no parking along that side of the street. Do you discuss with the parents of the children to ensure that they are not stopping to drop off children along that portion of the street? Granted with a six week old child this would not be occurring; however, with a five year old I can visualize a parent just dropping off at the curbside.

Mrs. Koontz said she does talk to them about this and none of her parents stop along the street, they pull into the driveway.

Mr. Da’Mes said can we have your assurance that you will request of your daycare parents to utilize the driveway and not do curbside.

Mrs. Koontz replied yes, she definitely tells everyone and will continue to inform any new parents in the future.

Mrs. Banks said there is available, permitted, curbside parking north of Mrs. Koontz’s driveway; we parked there on our tour yesterday.

Chairman Jones asked if there was anyone wishing to speak in favor of this proposal. Hearing none, he asked if there was anyone wishing to speak in opposition of this proposal. Hearing none, he closed the public hearing and asked if there was any discussion or a motion at this time.

Mr. Finks moved to recommend approval of the special use permit for a major family day home.

Mrs. Fitzgerald seconded the motion.

Chairman Jones said there is a motion to recommend approval and a second. He then called for a voice vote.

All voted in favor of the motion. (7-0)

Chairman Jones said this will go before City Council on May 11, 2010.

Rezoning – 139 and 147 West Water Street (R-3C to B-1C)

Chairman Jones read the request and asked staff to review.

Mrs. Turner said the Comprehensive Plan designates this area as Mixed Use Development. This designation includes both existing and proposed new mixed use areas. These areas are intended to combine residential and non-residential uses in planned neighborhoods where the different uses are finely mixed instead of separated. These areas are prime candidates for “live-work” and traditional neighborhood developments. Live-work developments combine residential and office/service uses allowing people to both live and work in the same area.

The following land uses are located on and adjacent to the property:

- Site: Two houses zoned R-3C, most recently used as professional office and residential
- North: Across Water Street, Community Mennonite Church and Fairfield Language Technologies, zoned M-1 and B-1 respectively
- East: Single family home zoned M-1 and C & W Railroad right of way
- South: Parking lot owned by Layman, Diener and Borntrager zoned M-1
- West: Single family home zoned M-1

Both 139 and 147 W. Water Street were rezoned from M-1 to R-3C, Multiple Dwelling Residential District Conditional in June 2004 and September 2005 respectively, at the request of the applicant, Stephan Hess. The proffered conditions for both properties were identical, that the properties would be used for: all uses permitted in the R-1, Single family Residential District, or professional and medical offices.

Prior to these rezonings, the residential uses of the buildings were considered nonconforming uses. The rezoning allowed both the residential uses and the anticipated professional offices to be considered conforming uses. After the rezoning, the buildings remain nonconforming to multiple setback requirements. The rezonings also aligned the zoning more closely with the Comprehensive Plan’s land use designation of Mixed Use Development than the previous M-1 zoning. Since the rezonings, parking has been added behind the buildings and they have been occupied both residentially and by professional offices.

The property owner is currently trying to lease the properties and has found interest from businesses such as service providers and retailers. He feels that rezoning the property to B-1, Central Business District, will provide increased opportunities in the leasing of the buildings. The B-1 classification permits multiple uses, including mercantile, service, restaurant, professional and business offices, hotels, institutional uses and housing with the added benefit of having no setback or parking requirements. With no setback requirements, the existing buildings on these lots would become conforming to the zoning ordinance. The applicant is aware that additional uses of these buildings could trigger the need for improvements to meet building codes. The current driveway on the site, between the two buildings, has limited sight distance towards Liberty Street because of the house on the adjacent lot. If this property is redeveloped in the future, and the driveway was to remain, this issue would need to be addressed.

A rezoning would also allow more signage. The current R-3 classification limits signs for nonresidential uses to twenty-four (24) square feet in area for each main building or use, with a maximum height of six (6) feet. The B-1 classification would permit sign area based on site

frontage—about forty (40) square feet per lot—and a maximum height of thirty (30) feet. The signage allowed by B-1 is similar to the signage permitted on the adjacent M-1 properties.

The Comprehensive Plan anticipates Mixed Use Development for this area, which is compatible with the B-1 zoning. Staff was concerned that a rezoning of this small area alone could simply result in future development of residential uses similar to what's found in our R-3 areas, without consideration to the mixed use or architectural elements that we want to encourage in our downtown area. To address this concern regarding multi family use, the applicant has proffered:

“... to allow all uses permitted by right and by special use permit under sections 10-3-84 and 10-3-85 of the Harrisonburg Zoning Ordinance; amending, however, section 10-3-84 subsection (3) to read: Hotels, motels and buildings used for **two or less** dwelling unit(s), CBD, as defined under Section 10-3-24. Dwelling unit(s), CBD, may be occupied by a family or not more than four persons, except that such occupancy may be superseded by building regulations.”

If this property was to ever be part of a larger scale urban development in this area, the additional properties would also have to be rezoned and these proffers could be modified to suit the project as part of the larger rezoning.

While this rezoning could be considered a natural extension of our downtown area and in compliance with the Comprehensive Plan land use guide, any expansion of our B-1 district may add to the need for additional downtown parking spaces. Because the B-1 classification does not require parking spaces, any additional land requested to be added to the classification should be evaluated for its potential impact on parking demand. The closest public parking to these lots is about 350 feet away, at the Water Street parking deck. It has been documented recently that this is one of the highest use City parking facilities. Although the subject property's size may be viewed as small enough not to cause parking concerns, it is larger than many very busy locations downtown. This is a factor of the absence of setbacks in the B-1 district and also the ability to build up to 75 feet in height. In addition, these two parcels are part of a larger block of properties which may also request rezoning to B-1. With the current building configuration, the site would easily accommodate about 15 parking spaces. Staff is concerned that rezoning property in this area without consideration for how the parking need will be met is not in the best interests of our downtown area or the city in general.

On Friday (April 9th) when we submitted the planning packet to you we were not recommending in favor of this request because there would be no assurance that any parking would be maintained on these lots. Since that time on Friday, after the packets were delivered, Mr. Hess did bring a new proffer letter in to us, it is placed before each of you. With that they did add a proffer to this request that they would provide and maintain ten off street parking spaces on the properties. I also want to note that the lots are owned in common now; but, if they were to ever separate them, because of this proffer, they would need to create some easements between the two lots so that the driveway would be able to be utilized by the two lots and parking could be shared. We have discussed this with the applicants.

Staff is appreciative of the owner's proffer to keep the lots from development as routine apartment buildings and the fact that the request is in line with the Comprehensive Plan. They have addressed the parking concern and staff is recommending for approval of this rezoning request.

Chairman Jones asked if there were any questions for staff. Hearing none, he opened the public hearing and asked the applicant of applicant's representative to speak.

Mr. Stephan Hess said he is one of the owners of the properties; he then introduced his partner David Allen. If you have any questions regarding this request I would like to answer them.

Chairman Jones asked if there were any questions for Mr. Hess. Hearing none, he asked if there was anyone else with the applicant wishing to speak. Hearing none, he asked if there was anyone wishing to speak in favor or in opposition of this proposal. Hearing none, he closed the public hearing and asked if there was any discussion or a motion at this time.

Mr. Chenault moved to recommend approval of the rezoning request with the two proffers.

Mr. Finks seconded the motion.

Mr. Da'Mes said this really comes to a question as to where do we stop with the B-1 zoning. Last year we approved the property adjacent to this to be rezoned to B-1; that rezoning made perfect sense as it was an extension of Rosetta Stone. Where does the buffer between the residential and the B-1 begin? That transition is where the mixed-use concept should come into play. I am just trying to get some thoughts from others as to where do we start the transition.

Mr. Chenault said with Harrisonburg Downtown Renaissance (HDR) and Eugene Stolfus conceptual design of what downtown Central Business District would appear like, we look at South High Street as being the dividing line on the west side of the district. When you look at this entire corridor from Bruce Street all the way to Gay Street, you find a lot of houses of this nature, and of similar lot size, that are being put to a comparable use as is being requested tonight. That seems to me to be the natural demarcation as to what the Central Business District is going to look like. We have mixed uses in this area; we have one that is approved, but has not been constructed yet. For me personally, South High Street is where I see the line and I see Mason Street in a similar vein as well.

Mr. Snell said I agree, except I would add the west side of South High Street; just that first row. The buffer is then created by South High Street being the last access point into the last of the Central Business District. It somewhat exists like that already, there are doctor offices, business offices, and other professional offices now.

Chairman Jones asked if there was any further discussion. Hearing none, he said there is a motion and a second and called for a voice vote.

All voted in favor of the motion to recommend approval of the rezoning request.

Chairman Jones said this will move forward to City Council on May 11th.

Unfinished Business

None.

Public Input

None.

Report of secretary and committees

Mrs. Banks said City Zoning Inspectors visited the Forest Hills / JMU section of the City and found only one violation; an inoperable vehicle. Next, they will visit the South Main Street area.

Mr. Baugh said the City Council reviewed three items from Planning Commission last night. A proffer change from the Community Services Board on North Main Street, the Master Plan Changes at Eastern Mennonite University, and various ordinance amendments were all unanimously approved.

Other Matters

Mr. Da'Mes gave a picture presentation and narration of his recent trip to Davis, CA, with the bicycle delegation from Harrisonburg.

Mrs. Banks gave a brief update on the Comprehensive Plan Review progress and said posters and flyers are available for anyone to take with them tonight.

Adjournment

The meeting was adjourned at 8:30 p.m.

Chairman William L. Jones, Jr.

Secretary, Alison Banks